

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE ADOBE INC. AND ADOBE SYSTEMS  
SOFTWARE IRELAND LIMITED'S *EX*  
*PARTE* APPLICATION FOR AN ORDER  
PURSUANT TO 28 U.S.C. § 1782 TO  
OBTAIN DISCOVERY FOR USE IN A  
FOREIGN PROCEEDING

C.A. No.:

**EX PARTE APPLICATION FOR AN ORDER PURSUANT TO 28 U.S.C. § 1782  
TO OBTAIN DISCOVERY FOR USE IN A FOREIGN PROCEEDING**

1. Applicants Adobe Inc. and Adobe Systems Software Ireland Limited (“Adobe Ireland,” collectively “Adobe”), by and through its undersigned attorneys, respectfully seeks an Order pursuant to 28 U.S.C. § 1782 to obtain discovery from Marsh Funding LLC (“Marsh”) for use in a foreign litigation proceeding (the “Dutch Proceeding”). In support of its application, Adobe submits a Memorandum of Law and Declarations of Noelle Williams (“Williams Declaration”) and M.G.A. Egeler (“Egeler Declaration”). Adobe further states as follows:

2. Adobe seeks this Court’s assistance to obtain discovery from Marsh as it was incorporated in Delaware and its headquarters are in Dover, Delaware, and it is thus “found” or “resides in” this District for purposes of Section 1782.

3. Adobe’s tailored discovery requests are set forth in the subpoena attached as Exhibit 1 to the Williams Declaration (the “Subpoena”) and relate to Marsh’s involvement in the Dutch Proceeding. The requested discovery will allow Adobe to defend itself in the Dutch Proceeding.

4. Section 1782 permits litigants in foreign proceedings to obtain discovery in the United States to assist in the foreign litigation. In particular, Section 1782 provides that the Court

“in which a person resides or is found may order him to give his testimony or statement or to produce a document or other thing for use in a proceeding in a foreign or international tribunal.”

5. The statutory requirements of Section 1782 are satisfied here. As explained in the accompanying Memorandum of Law, Williams Declaration, and Egeler Declaration: (i) Marsh is “found” or “resides in” this District because it was incorporated and has offices within this District; (ii) the discovery sought is to be used in the Dutch Proceeding; and (iii) Adobe is an “interested person” in the Dutch Proceeding.

6. This Application also meets the discretionary factors of Section 1782, as explained further in the accompanying Memorandum of Law and Egeler Declaration: (i) Marsh is not a party to the Dutch Proceeding; (ii) the Dutch court will be receptive to judicial assistance from U.S. courts; (iii) Adobe is not attempting to circumvent foreign proof-gathering restrictions; and (iv) the discovery sought is not intrusive or unduly burdensome. *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241 (2004).

7. Furthermore, this Application should be granted *ex parte* as *ex parte* applications are routinely granted in this district and permitted by law. *See, e.g., In re Ex Parte Application of Eni S.p.A. for an Ord. Pursuant to 28 U.S.C. § 1782 Granting Leave to Obtain Discovery for Use in Foreign Proc.*, 2021 WL 1063390 (D. Del. Mar. 19, 2021) (granting the *ex parte* application and allowing applicant to serve subpoenas); *In re Sevier*, 2022 WL 3923679 (D. Del. Aug. 31, 2022). A proposed order is submitted with this Application. Any potential issues may be raised by Marsh and resolved through a motion to quash made after the Proposed Subpoena has been authorized and issued.

8. Adobe therefore respectfully requests that this Court grant its application for an Order granting leave to serve Marsh with the Subpoena.

**WHEREFORE**, Adobe respectfully requests that this Court enter an Order:

1. Granting the application for discovery under 28 U.S.C. § 1782;
2. Authorizing Adobe to take discovery from Marsh, by issuing the Proposed Subpoena; and
3. Directing Marsh to comply with the Proposed Subpoena in accordance with the Proposed Order.

*Of Counsel:*

Gayle R. Klein  
Linda H. Martin  
Noelle Williams  
Maylin Meisenheimer  
3 World Trade Center  
175 Greenwich Street  
New York, NY 10007  
(212) 277-4000  
gayle.klein@freshfields.com  
linda.martin@freshfields.com  
noelle.williams@freshfields.com  
maylin.meisenheimer@freshfields.com

/s/ Kelly E. Farnan

Kelly E. Farnan (#4395)  
Sara M. Metzler (#6509)  
Jessica E. Blau ((#7163)  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
920 N. King Street  
Wilmington, DE 19801  
(302) 651-7700  
farnan@rlf.com  
metzler@rlf.com  
blau@rlf.com

*Attorneys for Applicants Adobe, Inc. and  
Adobe Systems Software Ireland Limited*

Dated: July 23, 2024